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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA**

PETER DELVECCHIA, *et al.*,

Plaintiffs,

vs.

FRONTIER AIRLINES, INC., *et al.*,

Defendants.

**Case No: 2:19-CV-01322-KJD-DJA**

**DECLARATION OF  
JOHN D. McKAY IN SUPPORT OF  
PLAINTIFFS' MOTION  
FOR LR IC 3-7(c) RELIEF**

I, John D. McKay, hereby make this Declaration pursuant to 28 U.S.C. §1746:

1. I am counsel for Plaintiffs in this action, along with Margaret McLetchie and Leo Wolpert.
2. I have personal knowledge of the matters set forth below and am competent to testify about them.

DECLARATION OF JOHN D. McKAY ISO MOTION FOR LR IC 3-7(c) RELIEF

- 1           3. Ms. McLetchie, Mr. Wolpert and I worked late into the evening on November 30, 2023 to  
2           get Plaintiffs' Response to Defendants' Motion for Summary Judgment ready for filing by  
3           ECF prior to midnight that night. We agreed among ourselves that Mr. Wolpert would do  
4           the filing of the Response once it was finished, along with the full exhibits that were not  
5           subject to Plaintiffs' Motion for Leave to File Under Seal and cover sheets for those that  
6           were subject to that Motion, and I would follow his filing with the filing of the sealed  
7           exhibits.
- 8           4. At 9:54 p.m. PST on November 30, Ms. McLetchie called me and said that Mr. Wolpert  
9           was having difficulty logging onto the Court's ECF system from their office, and she could  
10          not log onto it from their home, either. She asked me to try from my home in California.  
11          With her still on the line, I tried to log on and found that I could only get a blank white  
12          screen and a rotating icon indicating that the computer was trying to connect. My home's  
13          internet connection was otherwise working perfectly at the time. I had never encountered  
14          this before with the Court's ECF system, or any other Court's ECF system. I continued  
15          trying to connect throughout the remaining hours of that evening, trying different browsers  
16          (Chrome and Safari), trying my smartphone, and trying to connect after closing my browser  
17          and reopening it. All I got were the blank white screen and, if I let it continue to try  
18          connecting, messages of "Gateway Timeout," "Your connection was interrupted," and  
19          "The site can't be reached." I have attached representative screenshots taken throughout  
20          the period between 10:00 p.m. PST and 11:55 p.m. PST as **Exhibit A**. During the entire  
21          period, I successfully brought up other sites to confirm that my internet connection was  
22          functioning.
- 23          5. At 11:57 p.m. PST, the welcome page with the Court's seal at the top appeared, and I  
24          thought that it would be possible to finally make the filing in the remaining three minutes  
25          of the evening. I have attached a screenshot of the welcome page that I took at that time as  
26          **Exhibit B**.
- 27          6. However, when I clicked on the "District of Nevada—Document Filing System" link to  
28          get to the page for entering my PACER logon credentials, nothing happened. I videotaped

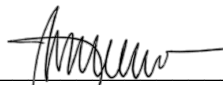
1 my efforts to get past the welcome page on my smartphone and could show the video to  
2 the Court when I am in the Courthouse for a hearing on Monday, December 4, 2023, if the  
3 Court would like to review it.

4 7. I tried to connect to the Court's ECF system until 12:00 midnight, and even for the  
5 following ten minutes, all without success.

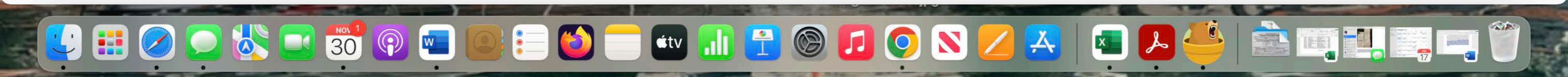
6 8. I awoke at approximately 7:40 a.m. PST on December 1, 2023, and tried again, and the  
7 ECF system appeared to be functioning normally. I was able to get the Response and  
8 unsealed exhibits all filed by 7:49 a.m. PST, and the sealed exhibits all filed by 8:23 a.m.  
9 PST.

10  
11 I declare under penalty of perjury that the foregoing is true and correct.

12 Executed on December 1, 2023.

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16 John D. McKay  
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**Exhibit A**





The gateway did not receive a timely response from the upstream server or application.



**Your connection was interrupted**

Your computer went to sleep.

ERR\_NETWORK\_IO\_SUSPENDED

Reload



**This site can't be reached**

**ecf.nvd.uscourts.gov** took too long to respond.

Try:

- Checking the connection
- Checking the proxy and the firewall

ERR\_TIMED\_OUT

### Details

Reload



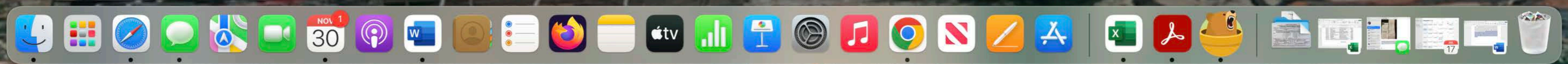
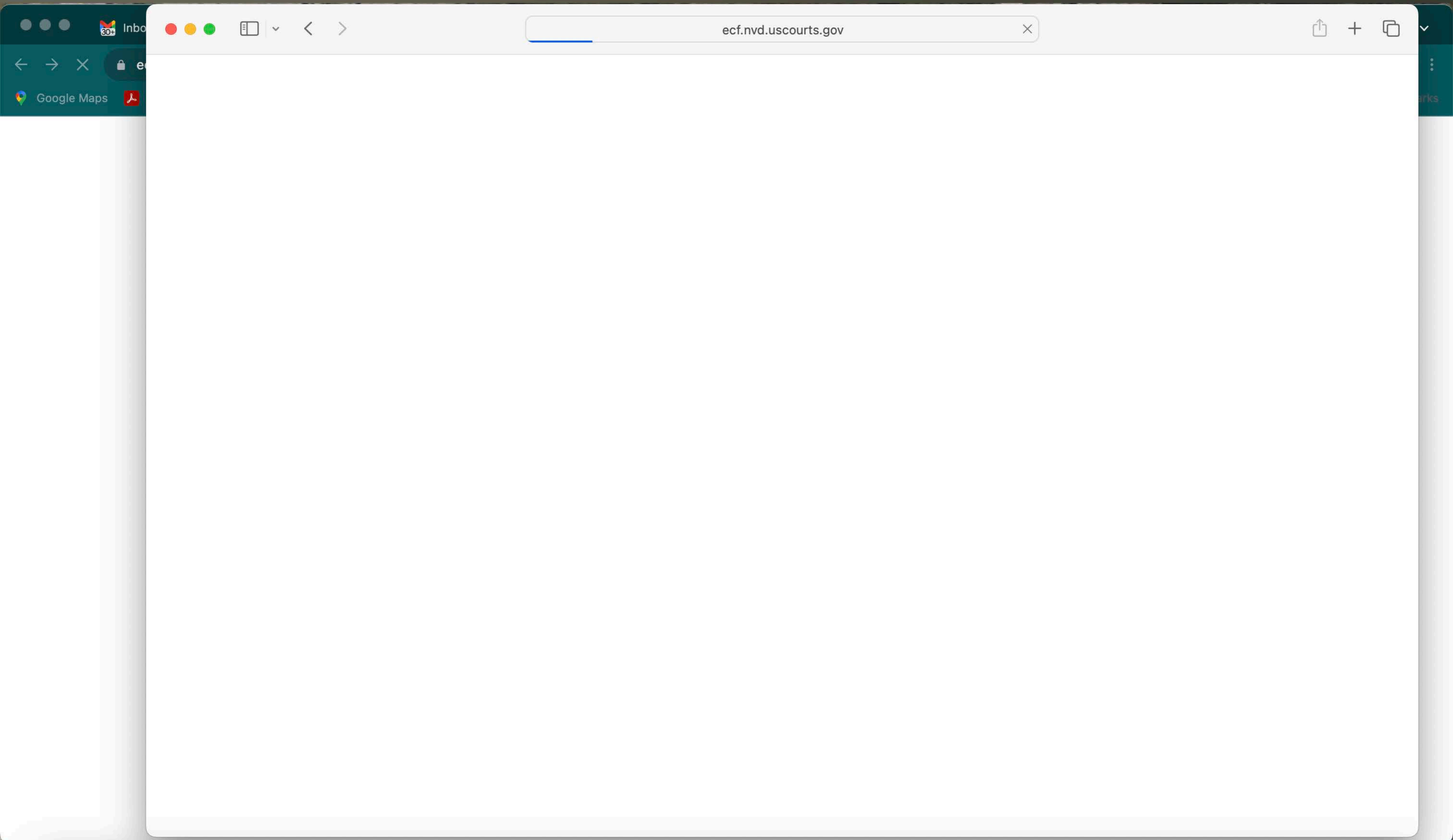
**Your connection was interrupted**

Your computer went to sleep.

ERR\_NETWORK\_IO\_SUSPENDED

Reload





**Exhibit B**

27August2021

## Court Information